REMARKS

Claims 1 and 17 have been amended to introduce routes of administration from claim 8 as well as those disclosed at page 15, lines 8-9 (intravenous or intraperitoneal). Claim 8 has been canceled. Claims 18-22 have been added to break out the particular routes of administration. Claims 1-7, 9-22 are pending and under examination. The "route of administration" species of the gene delivery currently under examination is "injection," which is now limited to "intravenous injection."

The Action first rejects claims 1-12 and 14-17 as obvious over Malone *et al.* In view of Debs. Applicants respectfully traverse.

The Action concedes that Malone *et al.* teaches only the glucocorticoid dexamethasone. However, it is noted that in the restriction requirement dated 10/19/05, the Examiner specifically stated that the use of one glucocorticoid over another was "patentably distinct" ("This application contains claims directed to the following patentably distinct species of the claimed invention... For example, each of the glucocorticoids of group 1, has a different structure and a different resulting physiological effect following introduction into an animal.") Since the glucocorticoid species under current examination is the patentably distinct glucocorticoid beclomethasone, and the prior art of record admittedly teaches only dexamethasone, then the Examiner has, by the admissions of record, clearly failed to make out a *prima facie* obviousness rejection of the species under examination.

Furthermore, the claims have been amended to recite routes of administration that demonstrate the unobviousness of the invention over Malone *et al.* It is evident from Malone *et al.* that the glucocorticoid is believed to promote enhanced expression in the tissue simply because it reduces the inflammation associated with the ***direct injection*** into the tissue:

The experiments were performed in both rat and cat models, demonstrating that

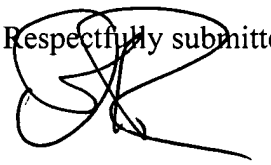
> gene expression ***after direct intrahepatic injection*** is not species specific. Acute hepatic inflammation likely occurred at the site of direct injection and possibly reduced expression from transfect genes. To overcome this possible inflammation, animals were treated with dexamethasone, resulting in enhanced and prolonged gene expression. ... These findings demonstrated that ***direct DNA injection*** can result in substantial hepatic gene expression that can be significantly enhanced by dexamethasone treatment.

Page 29903, top of col. 2 (emphasis supplied). While some direct effect on gene expression is speculated by Malone *et al.*, the reference clearly only contemplates that the effect is limited to the context of direct injection into the tissue to be treated. See, for example, first and last paragraphs of the Discussion section, pages 29906 and 29907, respectfully.

In contrast, the claims have now been amended to specifically distinguish over direct injection into the tissue to be treated, as they recite only routes where the administration is not associated with injection at the site of action of the gene. Indeed, the claims are now directed to administration by delivering the gene to the patient via oral administration, via skin absorption, via aerosol or via intravenous or intraperitoneal injection. Since Malone *et al.* posits that the action is due to reduced inflammation in the injected tissue, and is limited in its disclosure to direct injection into the tissue to be treated, there is no basis in Malone *et al.* for extrapolating from the action of corticosteroids beyond the situation where the gene is injected directly into the tissue where it is intended to act.

It is believed that in light of the foregoing amendments and comments the claims are now in condition for allowance. Should the Examiner desire to sustain any of the rejections discussed in relation to this Response, the courtesy of a telephonic conference between the Examiner and the undersigned attorney at 512-536-3055 is respectfully requested.

Respectfully submitted,



David L. Parker
Reg. No. 32,165
Attorney for Applicants

FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701
(512) 536-3055

Date: March 20, 2006